TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT	Docket Number (Optional) 021123-0238397

In re Application of: Esch et al.

Application No.: 08/870,591

Filed: June 6, 1997

For: Precipitated Silica

The owner*, __Degussa AG_____, of ___100___ percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. __6,180,076_____ as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

   expires for failure to pay a maintenance fee;
   is held unenforceable;
   is found invalid by a court of competent jurisdiction;
   is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
   has all claims canceled by a reexamination certificate;
   is reissued; or
   is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

   I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☑ The undersigned is an attorney or agent of record. Reg. No. __47,142_____

   Signature: _[signature]_   January 13, 2005
                          Signature   Date
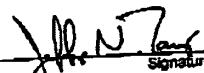
                      Jeffrey N. Townes_____
                      Typed or printed name

                                                    703.905.2000_____
                                                    Telephone Number
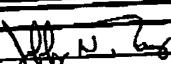
☑ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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	Complete if Known	
Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).	Application Number	08/870,691
FEE TRANSMITTAL **For FY 2005**	Filing Date	June 6, 1997
	First Named Inventor	Esch
	Examiner Name	S. Hendrickson
☐ Applicant claims small entity status. See 37 CFR 1.27	Art Unit	1754
TOTAL AMOUNT OF PAYMENT ($) 130	Attorney Docket No.	021123-0238397

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):_____

☑ Deposit Account   Deposit Account Number: 033975   Deposit Account Name:_____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☑ Charge fee(s) indicated below   ☐ Charge fee(s) indicated below, except for the filing fee

☑ Charge any additional fee(s) or underpayments of fee(s)   ☑ Credit any overpayments
under 37 CFR 1.16 and 1.17

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
Application Type	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

					Multiple Dependent Claims	
Total Claims	Extra Claims	Fee ($)	Fee Paid ($)		Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____ x	_____	= _____			
HP = highest number of total claims paid for, if greater than 20.						
Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)			
_____ - 3 or HP =	_____ x	_____	= _____			
HP = highest number of independent claims paid for, if greater than 3.						

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number)	x _____	= _____

4. OTHER FEE(S)

Non-English Specification, $130 fee (no small entity discount)   **Fees Paid ($)**   130

Other (e.g., late filing surcharge): Terminal disclaimer fee

SUBMITTED BY			
Signature	[signature]	Registration No. (Attorney/Agent) 47,142	Telephone 703.905.2000
Name (Print/Type)	Jeffrey N. Townes		Date January 13, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.